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MERCHANT & GOULD PC			PLUMMER, ELIZABETH A	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/573,453	<b>Applicant(s)</b> WILLIAMS ET AL.
	<b>Examiner</b> ELIZABETH A. PLUMMER	Art Unit 3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 30 September 2010.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,4-9,11,14,18,20 and 21 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4-9,11,14,18,20 and 21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date: _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>04/14/2010</u>	6) <input type="checkbox"/> Other: _____

### **DETAILED ACTION**

Applicant's amendments and arguments received 30 September 2010 have been entered and considered. Claims 3, 10, 12, 13, 15-17 and 19 have been canceled. Claims 20 and 21 have been added. An examination of pending claims 1, 2, 4-9, 11, 14, 18, 20 and 21 is herein presented.

#### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 14 April 2010 was filed after the mailing date of the Non-Final Rejection on 30 March 2010. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

#### ***Claim Objections***

2. Claims 1, 2, 4-9, 11, 14, and 18 are objected to because of the following informalities: Regarding claims 1, 14, and 18, the independent claims appear to use the term "sidewall" and "side wall" interchangeably. While either term is acceptable, the applicant should be consistent if the term is meant to refer to the same part. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5-9, 11 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Slaughter (GB 556,249).

a. Regarding claim 1, Slaughter discloses a panel assembly (Fig. 7) comprising at least two panels (103,104), each panel having a first surface (top), a second opposed rear surface (bottom), and side walls (walls extending between the first and second surface), said at least two panels (103,104) arranged relative to one another such that a side wall of one panel and a side wall of a second panel define a gap therebetween (Fig. 7), said panel assembly further comprising a joining member (Fig. 7) to bridge said gap, said joining member comprising: a flange member (92,93); an extension member (96) extending from said flange member, said extension member (96) having a length greater than a length between said first and second opposed surfaces of said panels (Fig. 7), and at least one resilient retaining member (98,99) connected to said extension member, and having a first biased configuration relative to the extension member, said at least one retaining member being moveable between said first biased configuration and a second different configuration (page 3, lines 69-60), and wherein in said second configuration, said at least one resilient retaining member is insertable into said gap (page 3, lines 64-73) between the first and at least second panels, and further wherein when the at least one resilient retaining member is positioned beyond said gap (Fig. 7), said at least one resilient retaining member resiliently returns at least towards said first biased configuration relative to the extension member (page 3, lines 40-50) and wherein

the length of the extension member (96) positioned the at least one resilient retaining member (98,99) such as to engage said second surface of at least one of said panels (Fig. 7), said flange member being moveable, or capable of being moved, from a substantially domed configuration (page 3, lines 96-101) to a substantially flat configuration relative to said first surface to substantially bridge the gap between said first and at least first and second panels, wherein the flange member is retained in said substantially flat configuration (page 3, lines 96-101) by the engagement of said at least one resilient retaining member with the second surface of said at least one of said panels (page 3, lines 43-64).

b. Regarding claim 2, the flange member (92,93) comprising a main body defined on one side by a first surface for engaging said at least a portion of the first surface (top) of both the first and second panels (103,104) (Fig. 7) and a second opposing side that presents the outward appearance of the joining member (Fig. 7).

c. Regarding claim 5, the extension member (96) is relatively straight and extends from a proximal end adjacent to the flange member to a distal end (Fig. 7).

d. Regarding claim 6, the at least one resilient retaining member comprising opposing first (98) and second (99) leg members connected to and disposed at an angle relative to the extension member (Fig. 7).

- e. Regarding claim 7, in said first biased configuration, the first and second members extend from a first end that is connected to the extension member to a second end that is spaced from the extension member (Fig. 7).
- f. Regarding claim 8, the second end of the first leg member (98) is engageable with the second surface of the first panel and the second end of the second leg member (99) is engageable with the second surface of the second panel (Fig. 7).
- g. Regarding claim 9, the second end of the first and second leg members (98,99) include a grooved or serrated face (at the shoulders 100,101) to engage the second surfaces of the panels.
- h. Regarding claim 11, the resilient retaining member includes a single leg member connected to the extension member (Fig. 7).
- i. Regarding claim 20, Slaughter discloses a method of bridging a gap between at least two panels (103,104) having a first surface (top) and a second opposed surface (bottom), the method including the steps of: providing an elongate joining member (Fig. 7) comprising a flange (92,93) member, an extension member (96) extending from said flange member and at least one retaining member (98,99) connected to said extension member; aligning said joining member with the gap between said at least two panels (Fig. 7); and applying pressure to the joining member to cause the at least one retaining member to move from a first configuration to a second configuration (page 3, lines 69-89) such that said retaining member moves from said second

configuration to said first configuration (page 3, lines 69-89) and engages at least a portion of the second surface of each panel ([age 3, lines 40-50; Fig. 7), and wherein further, the flange member (96) is brought into engagement with at least a portion of the first surface of each panel (Fig. 7).

5. Claim 14, 18, and 21 is rejected under 35 U.S.C. 102(b) as being anticipated by Marantier (FR 1 127 107).

a. Regarding claim 14, Marantier discloses a panel assembly (Fig. 3) comprising at least two panels (8), each panel having a first surface (top), a second opposed rear surface (bottom), and side walls (walls extending between the first and second surface), said at least two panels arranged relative to one another that a side wall of one panel and a side wall of a second panel define a gap therebetween (Fig. 2,3), said panel assembly further comprising a joining member (Fig. 1) to bridge said gap, said joining member comprising: a flange member (1,2), at least two resilient extension members (6) (Fig. 1,2,3,4), which extend from a first end connected to said flange member to a second free end, each resilient extension member (6) having a length greater than the length between the first and second surfaces of said panels (Fig. 3,4), and at least one resilient retaining member (4) moveable relative to the other from a first biased configuration (Fig. 1) to a second, different insertion configuration (Fig. 2) for insertion into said gap (Fig. 2) and when positioned beyond said gap, said extension members adopt said first biased configuration (Fig. 3,4), the length of each extension member being such that when positioned beyond said gap, said

at least one resilient retaining member engages at least a portion of the surface of at least one of the panels (Fig. 3 at 9), said flange member being moveable, or capable of being moved, from a substantially domed configured relative to said first surfaces of said panels to substantially flat configuration (Fig. 3) relative to said first surfaces of said panels to substantially bridge the gap therebetween, wherein said flange member is retained in said substantially flat configuration by the engagement of said at least one resilient retaining member (3) with the second surface of said at least one of said panels (Fig. 3).

b. Regarding claim 18, Marantier discloses a panel assembly (Fig. 3) comprising at least two panels (8), each panel having a first surface (top), a second opposed rear surface (bottom), and side walls (walls extending between the first and second surface), said at least two panels arranged relative to one another that a side wall of one panel and a side wall of a second panel define a gap therebetween (Fig. 2,3), said panel assembly further comprising a joining member (Fig. 1) to bridge said gap, said joining member comprising: a flange (1) having a first configuration in which the outer surface has a domed shape (Fig. 1) and a second configuration in which the first outer surface is substantially flat (Fig. 3) relative to the first surfaces of said panels, an extension member (6) (Fig. 1,2,3,4), connected to the second surface of the flange at a proximal end and extending to a distal end, said extension member (6) having a length greater than the length between the first and second surfaces of said panels (Fig. 3,4), and a retaining member (4) connected to and extending from the distal end of the

extension member (6), the retaining member including a leg member having a first end and an opposing second end (Fig. 3,4), the retaining member having an expanded configuration (Fig. 1,3) and a collapsed insertion configuration for insertion (Fig. 2) of the retaining member through said gap, wherein when the retaining member is positioned beyond said gap it is in said expanded configuration (Fig. 3), and wherein the length of the extension member is such that the retaining member is caused to engage at least a portion of the second surface of at least one of the panels (Fig. 3), said engagement causing said flange to be retained in said substantially flat configuration.

c. Regarding claim 21, Marantier discloses a method of bridging a gap between at least two panels (Fig. 2,3), each panel having a first surface (top) and a second opposed surface (bottom), the method including the steps of: providing an elongate joining member (Fig. 1) comprising a flange member (1,2) and at least two extension members (6) extending from said flange member (1), the at least one extension member including at least one retaining member (4) connected to said extension member; aligning said joining member with the gap between said at least two panels (Fig. 2), and applying pressure to the joining member to cause the at least one retaining member to move from a first configuration (Fig. 1) to a second configuration (Fig. 2) such that said at least two extension members are caused to move into and through said gap and wherein at least a portion of the retaining member (4) is brought into engagement with at least a portion of the surface of a panel (Fig. 3,4), and wherein further, the flange

member is brought into engagement with at least a portion of the first surface of each panel (Fig. 3).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slaughter (GB 556,249).

Regarding claim 4, Slaughter discloses the invention as claimed except for where, in the second substantially flat configuration, the first surface of the flange member is substantially flush with the two panels. However, Slaughter also discloses that the flange members can be moved into any number of different shapes (page 3, lines 96-98). Slaughter also discloses other embodiments that teach the flange members of a joining member being substantially flush with two panels (Fig. 3). It would have been a matter of obvious design choice to make the first surface of the flange member substantially flush with the two panels when in the second substantially flat configuration, such as shown in the alternative embodiment, in order to create a different decorative design and ornamentation.

***Response to Arguments***

8. Applicant's arguments with respect to claims 1, 2, 4-10, 14, 18 and 20-21 have been considered but are moot in view of the new ground(s) of rejection. Note that applicant has amended the claims to recite a combination; as such, the rejection has been modified to show the entire combination.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. In addition, Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 14 April 2010 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELIZABETH A. PLUMMER whose telephone number is (571)272-2246. The examiner can normally be reached on Monday through Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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